

## ADMINISTRATIVE PROCEDURE NO. 412

# SEXUAL HARASSMENT

### Background

Sexual harassment in any form will not be tolerated. No employee or student will be subjected to sexual harassment in the school jurisdiction.

### Procedures

1. The following definition has been adopted in order to guide staff members in dealing with incidents of sexual harassment.

Sexual harassment refers to any repeated unwelcome behavior that is sexual in nature. Unwanted sexual advances, unwanted requests for sexual acts, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- a. such conduct undermines another individual's personal dignity by causing embarrassment, discomfort, humiliation or offence; or
- b. such conduct interferes with an individual's work performance or learning opportunities by creating an intimidating or hostile work or learning environment; or
- c. submission to such conduct is made either explicitly or implicitly as a term or condition of employment or of educational services; or
- d. submission to or rejection of such conduct affects decisions regarding that individual's employment or educational advancement including matters such as promotion, salary, benefits, job security, grades, or employment references.

Unequal treatment of equal members of Divisional staff may be viewed as sexual harassment when the gender of the individual becomes a factor.

Sexual harassment includes unwanted touching, such as pinching, patting, rubbing, leering, sexist jokes, the display of sexually suggestive material, derogatory or degrading comments, sexually suggestive gestures, and unwelcome propositions, innuendoes, demands or inquiries of a sexual nature.

The behavior giving rise to a complaint need not be intentional in order to be considered sexual harassment, it is sufficient that the offender knows, or ought reasonably to know, that the behavior is offensive and unwelcome.

2. Sexual harassment can also occur outside of the school or central office such as:
  - a. at social functions;
  - b. on school-related travel or field trips; or
  - c. anywhere individuals involved have a work or school related relationship.
3. These procedures apply to all individuals working for, or volunteering with, the Board or attending Division schools. Sexual harassment will not be tolerated, whether engaged in by employees, volunteers or students.
4. Confidentiality will be maintained throughout the complaint procedure, and information relating to the complaint, including the identity of the parties involved, will only be disclosed to the extent necessary to investigate the complaint.
5. The Superintendent shall:
  - a. inform all employees, volunteers and students about the Division's position on sexual harassment and these procedures;
  - b. take steps to educate employees, volunteers and students about sexual harassment, and the procedures for investigating complaints;
  - c. discourage and prevent sexual harassment, even in the absence of formal complaints, for example, speaking with those who may be known to be violating the procedures; and
  - d. support and assist any employee, volunteer or student who complains of sexual harassment by a person outside of the school jurisdiction, for example, salesperson, volunteers and visitors.
6. Employees who have experienced sexual harassment, regardless of the identity of the harasser, are encouraged to:
  - a. keep a written record of dates, times, the nature of the behavior, the names of people who may have witnessed the incidents, and the action taken to stop the harassment;
  - b. if practicable, advise the offender, either verbally or in writing, that their behavior is unacceptable and unwelcome and ask that they stop; and
  - c. promptly report the incident to a trusted adult, the principal, or the Superintendent.

7. Any employee or student who believes that a colleague has experienced, or is experiencing, sexual harassment or retaliation, is encouraged to notify the principal or the Superintendent. In the case of students, employees must always be aware that they stand in *loco parentis* to all students.
8. These procedures do not preclude a complainant from reporting sexual harassment to the Alberta Human Rights Commission, or if the matter is perceived to be of a criminal nature, to the police.
9. Substantiated complaints shall be resolved in the following manner:
  - a. The principal or Superintendent may attempt to resolve the complaint in an informal manner, for example, through mediation with both parties, if this is deemed practicable in consideration of all of the circumstances;
  - b. If the informal resolution fails, or is not practical under the circumstances, the Superintendent may impose appropriate disciplinary action after providing the alleged harasser with the opportunity to respond to the complaint;
  - c. If the harasser has been disciplined, the relevant documentation will be retained in their personnel file. If the investigation fails to support the complaint, no record shall be retained in the alleged harasser's personnel file; and
  - d. If the complaint was filed in good faith, no documentation shall be placed in the complainant's personnel file. However, any person who knowingly and willfully submits a complaint based on false allegations shall be subject to disciplinary action and the documentation will be retained on their personnel file.
10. Retaliation against an individual who:
  - a. invokes a complaint on their own, or on another person's behalf, under these procedures; or
  - b. participates in, or cooperates with an investigation under these procedures; or
  - c. associates with a person who has invoked a complaint under these procedureswill not be tolerated. Any retaliation against an individual who reports sexual harassment will be treated as sexual harassment and subject to the same disciplinary measures.
11. Individuals found to have engaged in sexual harassment will be appropriately disciplined. Disciplinary action may include:
  - a. a demand for a written apology;

- b. a written reprimand delivered to the harasser, and recorded in their personnel file;
- c. referral to counseling;
- d. transfer;
- e. withholding of promotion;
- f. demotion;
- g. suspension or termination of employees; or
- h. suspension or expulsion of students.

12. The complaint and the alleged perpetrator shall have the right of appeal as outlined in Administrative Procedure No. 360 - Student Appeals.

In the case of informal or verbal complaints regarding sexual harassment, the following shall apply:

1. Students or employees who believe they have been subjected to sexual harassment may discuss the situation with a teacher, principal, counselor, or Superintendent; and
2. These persons shall respect the confidence of the complainant and provide support and guidance in assisting the complainant to choose from among the alternatives that are available.

In the case of formal or written complaints regarding sexual harassment, the following shall apply.

1. Students or employees who believe they have been sexually harassed may submit a written complaint to a trusted adult, the principal, or the Superintendent.
2. A valid letter of complaint should normally contain:
  - a. who the alleged harasser was or is;
  - b. where the alleged harassment took place;
  - d. when the alleged harassment took place;

- e. the nature of the alleged harassment; and
  - f. the names of witnesses, if any.
3. The individual receiving the complaint may refuse to take action on a complaint, which is deemed to be frivolous or vexatious. In these cases, the trusted adult's decision may be appealed to the principal, the principal's decision may be appealed to the Superintendent, and the Superintendent's decision may be appealed to the Board.
  4. If the trusted adult believes action is necessary, the principal or Superintendent will be notified.
  5. The Superintendent will investigate the details of the complaint, hear evidence from the parties involved, and recommend solutions to identified problems. The Superintendent may take the following action:
    - a. All documents and evidence submitted by the complainant shall be made available to the alleged harasser. All documents submitted by the alleged harasser shall be made available to the complainant;
    - b. The Superintendent may wish to secure additional information from the files, records, or other documents. This information is to be shared with both parties; and
    - c. The Superintendent shall make a decision on, or resolve, the matter within one month from the time of the initial contact by the complainant.
  6. Should the complainant so request, the investigation will be stopped at any point , except where the alleged harasser requests that the investigation continue.
  7. The Superintendent may choose at any time to close or suspend the investigation. Such a decision may be appealed to the Board.
  8. The Superintendent shall make a full report to the complainant and the alleged harasser, at the close of the investigation, indicating whether:
    - a. The alleged harasser is considered guilty or not guilty of sexual harassment;
    - b. The harasser is to be disciplined or other action is to be taken;
    - c. The matter has been referred to another agency, such as the Alberta Human Rights Commission;
    - d. Administrative or other changes are to be made to avoid recurrence of similar conduct; and

- e. The complainant deliberately and knowingly made false allegations in an attempt to cause harm to the individual charged with sexual harassment and is specific sanctions are to be imposed on the complainant.
9. Any sanctions imposed by the Superintendent will be set out in the written report to the parties involved in the alleged harassment.
  10. Any staff member, student or volunteer may make a complaint directly to the Alberta Human Rights Commission. Any complaint filed under the *Individual's Rights Protection Act* must be lodged with the Alberta Human Rights Commission within six months of the alleged incident.
  11. Either party to the incident has the right to seek redress through the civil courts or to file a complaint with their union or association.